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Reagan Won't Rule Out 'Black Bag Jobs' in National Security Cases

By George Lardner Jr.
Washington Post Staff Writer

President Reagan has refused to rule out surreptitious entries — or "black bag jobs" — in future national security cases.

The White House enunciated the position on Reagan's behalf in rejecting an American Civil Liberties Union request for a presidential directive "prohibiting the secret and warrantless searches of people's homes in the name of national security."

"President Reagan believes it would be neither necessary nor prudent" to issue any such "blanket directive," White House counsel Fred F. Fielding said in his reply.

Recent administrations and presidents have claimed the authority to order secret break-ins and searches without a warrant but have apparently never exercised it. Under current rules, laid down by President Carter in 1978, such "black bag jobs" could be undertaken against a U.S. citizen only if the president approved the technique and only if the attorney general determined that there was probable cause to believe the target to be an agent of a foreign power. The White House letter did not indicate what standards Reagan has in mind.

ACLU officials had asked for the prohibition against warrantless searches of people's homes in a letter to the president last month. They said they were especially concerned because of Reagan's pardon of two former high-ranking FBI officials convicted on civil rights conspiracy charges last fall.

The two FBI veterans, W. Mark Felt and Edward S. Miller, had been found guilty in federal court here of authorizing illegal searches at homes of friends and relatives of members of the radical Weather Underground in the early 1970s.

Reagan granted them full and unconditional pardons April 15, asserting that the two men had "acted not with criminal intent, but in the belief that they had grants of authority reaching to the highest levels of government."

Responding to the pardons the next day, ACLU officials Ira Glasser and John Shattuck wrote the president that they feared the action would be taken by the FBI and other U.S. intelligence agencies "as a signal that they should feel free to violate [constitutional] rights whenever they believe that the national security is threatened."

Fielding wrote back to say that "the president does not share your fear." The White House counsel said Reagan "fully supports" the Fourth Amendment's guarantee "against unreasonable searches and seizures," but also recognizes "his sworn duty to preserve and protect the national security of the United States."

Fielding added that "plainly, warrantless searches in the intelligence field should be permitted only when interests of national security so require."

"However," he said, "the president does not believe that he can or should, consistent with his first duty to preserve the security of the nation itself, announce a policy — more rigid than any adopted by Congress, the courts, or previous administrations — that national security will never be sufficient for warrantless searches."

The White House reply was dated May 4. ACLU officials made a copy available yesterday. One of them, ACLU legislative director Jerry Berman, said he feared it portended a much more permissive policy for U.S. intelligence agencies. A new executive order, replacing the restrictions imposed by Carter in 1978, is being drafted.

"The protection of homes is the core of the Fourth Amendment," Berman said in voicing disappointment at the White House response. "A warrantless national security search of a

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